

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and  
Statement of Finding for Above-Numbered Permit Application

1. Applicant: Sierra Properties  
C/O Mr. John Sierra, Jr.  
509 Guisando de Avila, Suite 200  
Tampa, FL 33613
2. Location, Existing Site Conditions, Project Description,  
Changes to Project:
  - a. Location: The project is located in the Cypress Creek watershed, bounded on the west by State Road 54, on the south by Cypress Creek, and on the east by Interstate 75, Sections 22 and 27, Township 26 South, and Range 19 East, Pasco County, Florida.
  - b. Latitude/Longitude: 28.19294 North; 82.39138 West
  - c. Existing Site Conditions: The project site consists of approximately 507.7 acres including 155.46 acres jurisdictional wetlands, 9.65 acres jurisdictional surface waters, a non-jurisdictional 1.73-acre DOT stormwater pond, 3.57 acres of non-jurisdictional wetlands and surface waters and 337.29 acres of uplands. Jurisdictional wetlands consist of cypress swamps (FLUCFCS<sup>1</sup> 621), mixed wetland forests (FLUCFCS 630), freshwater marshes (FLUCFCS 641), wet prairies (FLUCFCS 643), ditches (FLUCFCS 510) and small ponds (FLUCFCS 500).

The wetland system consists of a network of freshwater wetlands adjacent to Cypress Creek, a designated Outstanding Florida Water by the State of Florida pursuant to 62-302.700 F.A.C. The uplands on the site are predominantly pasture. The existing area surrounding the project site consists of commercial development to the east, pastureland to the north and south, low-density residential development to the east and high-density residential development to the northwest and southeast. The site is immediately west of Interstate 75 and bisected by State Road 56, an east-west, 4-lane road.

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<sup>1</sup> Florida Land Use, Cover, and Forms Classification System

d. Project Description: The applicant proposes to construct a regional mall known as Cypress Creek Town Center (CCTC) requiring the discharge of approximately 270,418 cubic yards of fill material into approximately 53.89 acres of jurisdictional wetlands, 9.65 acres of man-made jurisdictional surface waters, and 3.57 acres of non-jurisdictional, isolated wetlands and surface waters. In addition, temporary impacts are proposed for 0.012 acres of jurisdictional wetlands.

e. Changes to Project since public notice: Mitigation Area M-3 was originally proposed to serve only as a floodplain mitigation area. Plans were revised to revegetate and monitor this area to serve as additional on-site mitigation. On the off-site Alston mitigation tract, 19.4 acres of (savannah) wetland creation was added. The public notice featured 8.7 acres of wet prairie restoration. An additional 6.1 acres of wet prairie restoration was added for a total of 14.8 acres. Due to a lack of baseline information, the Corps will not accept nor require the 28.6 acres of hydrologic wetland enhancement proposed in Wetland Areas 8 and 9. These areas were instead granted preservation credit. The project was revised to include planting of the 13.20 acres of proposed littoral shelves with native vegetation. The project was also revised to include planting of 2.81 acres of shallow, non-littoral shelf area within 300 feet of Cypress Creek with native vegetation.

### 3. Project Purpose:

a. Basic: The basic project purpose is to develop a regional mall and supporting commercial enterprises, including retail businesses, financial institutions, hotels, restaurants, cinemas, offices and multi-family residential housing.

b. Overall: The overall project purpose is to develop a regional mall and supporting commercial enterprises to serve a market bounded by U.S. 301 on the east, the Suncoast Parkway on the west, extreme southern Hernando County to the north, and northern Tampa to the south.

4. Scope of Analysis: The scope of analysis includes the 507.7-acre parcel owned by the applicant.

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5. Statutory Authority: Section 404 of the Clean Water Act of 1972, as amended.

6. Other Federal, State, and Local Authorizations Obtained or Required and Pending:

a. State water quality certification (WQC): The Southwest Florida Water Management District (SWFWMD) issued Environmental Resource Permit No. 43026931.001 on January 30, 2007.

b. Coastal Zone Management (CZM) consistency/permit: There is no evidence or indication from the State of Florida that the project is inconsistent with the Florida CZM. Issuance of a SWFWMD permit certifies that the project is consistent with the CZM plan.

c. Other authorizations: Not applicable.

7. Date of Public Notice and Summary of Comments:

a. Pre-application meeting(s): On 18 Jan 05, the Corps met with the applicant during a pre-application meeting.

b. Important dates: On 16 Dec 04, a jurisdictional determination was requested by the applicant. The application was received on 10 May 05. On 22 Sep 05, the Corps requested additional information necessary to publish the public notice. The jurisdictional delineation was verified by the Corps on 20 Oct 05. The application was considered complete on 13 Oct 05 and a public notice was published on 31 Oct 05. A Request for Additional Information (RAI) was made on 28 Feb 06 and this information was received on 2 May 06. A second RAI was made on 21 Jun 06 and this information was received on 12 Sep 06. A third RAI was made on 12 Oct 06 and this information was received on 14 Nov 06. The Environmental Resource Permit was received on 1 Feb 07. An updated mitigation plan was provided on 21 Feb 07. A fourth RAI was made on 21 Mar 07 and this information was received on 27 Mar 07. U.S. Fish and Wildlife Service concurrence was received on 27 Mar 07.

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c. Public notice comments: The Corps has reviewed all of the comments submitted in response to the circulation of the public notice. The Corps has summarized these comments below:

(1) U.S. Environmental Protection Agency (USEPA): By letter dated 10 Nov 05, USEPA requested an extension to the 30-day comment period. The Corps granted this extension and USEPA was given until 31 Dec 05 to provide comments; however, no comments were submitted.

(2) U.S. Fish and Wildlife Service (USFWS): By letter dated 22 Mar 07, USFWS concurred with the Corps' determination that the project may affect, but is not likely to adversely affect, the wood stork and eastern indigo snake. Additional detail is provided in Item 11 of this document.

(3) National Marine Fisheries Service (NMFS): By email dated 9 Nov 05, NMFS notified the Corps that they were not responsible for the affected resources (freshwater wetlands) and had no comment.

(4) State Historic Preservation Officer (SHPO): By letter dated 20 Jun 05, SHPO stated that their review of the Florida Master Site File indicated no significant archaeological or historical resources in the project area. They also stated that because of the location and/or nature of the project, it is unlikely that any such sites will be affected.

(5) State and local agencies: The Hillsborough County Environmental Protection Commission raised issues regarding water quality and water supply, addressed in Item 10(b)(14) below. Mr. Peter Hanzel, representing the Wesley Chapel Chamber of Commerce, expressed support for the project based on the economic returns expected and the need for a mall in the area.

(6) Organizations: Comments were received from Mr. Dan Rametta, representing Citizens for Sanity.Com (CFS), Mr. Richard Sommerville, representing Citizens for Sanity of Pasco County, Inc. and the Naturecoast Group of the Sierra Club, Ms. Leslie Blackner, representing Floridians for Environmental Accountability & Reform (FEAR), Ms. Denise Layne, representing

Sierra Club Tampa Bay Group, and Ms. Jennifer Seney, representing Preserve Pasco. Ms. Seney expressed support for the project; all others expressed concerns analyzed in Items 8 and 10-13 of this document.

(7) Individuals: Mr. Ralph Brookes submitted comments as the attorney representing the following adjacent property owners: Mr. Bob Jones, Ms. Shirley Jones, and Ms. Leigh Jefts. Fifteen (15) identical form letters were submitted from various individuals. The issues raised by Mr. Brookes and the senders of the form letters are addressed in detail in Items 8, 10-13 of this document.

(8) Others Including Internal Coordination: No comments were provided.

(9) Elected officials: By letter dated 9 Dec 05, U.S. Congressman Michael Bilirakis forwarded the concerns of his constituent, Richard Sommerville. By letter dated 27 Dec 05 to Congressman Bilirakis, the Corps acknowledged receipt of the concerns and stated that such concerns would be given due consideration in the Corps' decision-making process. By letter dated 7 Dec 05, U.S. Senator Bill Nelson forwarded the concerns of his constituent, Richard Sommerville. By letter dated 27 Dec 05 to Senator Nelson, the Corps acknowledged receipt of the concerns and stated that such concerns would be given due consideration in the Corps' decision-making process. Richard Sommerville's comments on the public notice, dated 30 Nov 05, were attached to these two letters to elected officials. No new issues were raised.

## 8. Alternatives

### a. No-action alternative

The no-action alternative would result in the continued use of the parcel for agriculture. The site is leased for \$6,000 per year. The 2005 Pasco County taxes for the undeveloped property were \$27,085. Therefore, the current net revenue from the parcel is a loss of \$21,085 and not practicable.

b. Site selection criteria

The applicant conducted a regional market evaluation to determine the geographic extent of a viable market for a regional mall in northeast Tampa. The boundaries of the market were determined by accessibility, physical barriers, location of competing facilities, and limitations of driving time and distance. The eastern boundary ends roughly at U.S. Highway 301, beyond which the low population density and modest income level restrict the ability to draw shoppers effectively. The southern boundary is restricted to the outskirts of north Tampa by existing, saturated markets for Citrus Park Mall, University Mall, and Brandon Town Center. The northern boundary extends to southern Hernando County, beyond which driving time is too great to effectively draw shoppers in the examined market. The western boundary is similarly restricted by drive time and is roughly limited by the Suncoast Parkway.

Within the target market defined above, the applicant examined 12 sites. The site selection criteria used in the analysis included the following:

(1) Size and configuration: 200-250 acres required in a configuration to allow development of the mall and associated uses.

Ratings: 0 = Less than 200 acres and/or cannot be configured to permit development; 2 = Acreage marginally adequate and can be configured to permit development; 4 = Acreage adequate and can be configured to permit development.

(2) Availability:

Ratings: 0 = Not for sale; 2 = For sale with potential complications (e.g., trust dispute, estate not settled); 4 = For sale.

(3) Market Potential: Market research conducted by the applicant showed that a minimum primary trade zone population of 250,000 is required to support the proposed regional mall. Average annual income needed to support the proposed project is between \$60,000 and \$75,000.

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Ratings: 0 = Market potential severely restricted; 1 = Market potential limited; 2 = Market potential not ideal; 3 = Market potential acceptable; 4 = Market potential excellent.

(4) Access: Must be located on a primary thoroughfare in close proximity to a freeway interchange serving the entire area. Sites with direct access to 2 major or minor arterial roads are preferred by the applicant, while sites with access solely from collector roads were considered less suitable.

Ratings: 0 = Access unacceptable; 1 = Access marginally acceptable only with major improvements; 2 = Access acceptable only with improvements; 3 = Access good but not ideal; 4 = Access ideal.

(5) Roadway network: The ability of the adjacent roadway to accommodate traffic generated by the proposed project was considered. Where the network would require improvements, costs of the improvements were considered.

Ratings: 0 = Inadequate; 1 = Requires major improvements; 2 = Requires minor improvements; 3 = Acceptable; 4 = Excellent.

(6) Consistency with County Comprehensive Plan and Zoning:

Ratings: 0 = Not consistent with Comprehensive Plan and/or Zoning, approval of amendments highly unlikely; 1 = Not consistent with Comprehensive Plan and/or Zoning, approval of amendments difficult to obtain; 2 = Not consistent with Comprehensive Plan and/or Zoning, approval of amendments somewhat difficult to obtain; 3 = Not consistent with Comprehensive Plan and/or Zoning, approval of amendments not difficult; 4 = Consistent with Comprehensive Plan and Zoning.

(7) Environmental Suitability: The following environmental impacts were considered: acreage of wetland impacts, quality of wetlands that would be impacted, presence of wetland-dependent listed species, suitability of soils, flood zones, and upland listed species. The evaluation considered the difficulty of obtaining needed permits.

Ratings: 0 = Impacts substantial, not permittable; 1 = Impacts substantial, very difficult to permit; 2 = Fewer impacts, somewhat difficult to permit; 3 = Few impacts, less difficult to permit; 4 = No impacts.

c. Off-site alternatives: The following 12 sites, within the target market defined above, were evaluated:

(1) Southeast quadrant of Interstate 75 and State Road 52.

(2) Northwest quadrant of Interstate 75 and County Road 54.

(3) Southwest quadrant of Interstate 75 and County Road 54.

(4) Southeast quadrant of Interstate 75 and County Road 54.

(5) Southeast quadrant of County Road 54 and County Road 581 (Bruce B. Downs Boulevard).

(6) "Geraci" family property located South of County Road 54, between the Suncoast Parkway and U.S. Highway 41.

(7) Northeast and southeast quadrant of Interstate 75 and State Road 56.

(8) Portion of southern extent of Wiregrass Ranch.

(9) South of Morris Bridge Road, approximately  $\frac{3}{4}$  mile east of Interstate 75.

(10) Directly east of Interstate 75, between Morris Bridge Road and Fowler Avenue.

(11) North of Fowler Avenue, approximately 1 mile east of Interstate 75.

(12) Northwest and southwest quadrants of Interstate 75 and State Road 56 (proposed site).



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Criteria								
Site		1	2	3	4	5	6	7
	1	4	4	0	2	1	0	3
	2	0	--	--	--	--	--	--
	3	0	--	--	--	--	--	--
	4	4	4	2	0	0	1	3
	5	1	0	--	--	--	--	--
	6	3	0	--	--	--	--	--
	7	2	0	--	--	--	--	--
	8	1	0	--	--	--	--	--
	9	0	--	--	--	--	--	--
	10	0	--	--	--	--	--	--
	11	0	--	--	--	--	--	--
	12	4	4	4	4	1	2	2

Nine out of twelve sites were not practicable because they were too small and/or were not available for sale. Site 1, although available and of sufficient size, failed to be a viable alternative because there is a lack of population density and extremely limited populated growth in this northern portion of Pasco County. The site has recently been designated as an Employment Center by Pasco County, which means this site will no longer be developable as a regional retail center. Due to the narrow configuration of the northern portion of Site 4, access could only be provided by one arterial road. Thus, Site 4 failed to be practicable since it cannot provide the required access. Therefore, of the 12 sites examined above, Site 12 is the only practicable site.

One commenter stated that the alternative of revamping the existing University Mall should be considered. It was not considered by the applicant because it falls outside of the target market area defined above. Had this alternative been considered, it would have failed to be practicable since it was not for sale.

The applicant's research revealed no brownfields/redevelopment opportunities of sufficient size within the target market area. Combining parcels was considered but did not yield a viable alternative.

The applicant further clarified that the project purpose cannot be met by dividing the proposed project between sites. The regional mall, power center, and outparcels create a synergy when located adjacent to one another that is required to achieve financial viability.

d. On-site alternatives:

On the selected project site, the applicant initially evaluated 4 site plans as follows:

(1) Alternative A: Featured a multi-family residential component on southern portion, requiring destruction of a large majority (30 acres) of Wetland P for stormwater facilities.

(2) Alternative B: Removed the multi-family residential component from the southern portion and relocated stormwater facility in uplands.

(3) Alternative C: This plan further reduced impacts by 10 acres by reconfiguring the footprint in the southwest portion of the site.

(4) Alternative D (proposed plan): Further refinement of stormwater and flood control facilities allowed a further reduction of impacts by 10+ acres.

Alternative	Acreage of wetland impact
A	106
B	75.6
C	65
D	53.89

Further analysis was performed for alternative routes for County Road 54 through the property. The applicant is required by Pasco County to extend the road through the project area to County Line Road. The proposed project is not dependent on the extension of the road south of the property, as its access is gained from Interstate 75 and State Road 56. Therefore, the

Corps analyzed the route of County Road 54 within the project area as direct impacts and those south of the project area as secondary impacts. The northern starting point of the road is dictated by the existing State Road 56 and County Road 54 intersection. Impacts to Wetlands J and K were unavoidable given this constraint. However, retaining walls will be installed along the west side of the road to minimize impacts on remaining portions of Wetland J. Impacts to Wetland R will be completely avoided by use of a retaining wall on the east side of the road. The road was aligned to cross Cypress Creek at a location where no wetlands would be impacted, between wetlands R and S. South of Cypress Creek lays King Ranch. In 2006, Wade Trim completed a route study for Pasco County that examined 3 different routes from Cypress Creek to County Line Road. An alternative was selected that had no impacts to aquatic resources. Therefore, secondary impacts south of the project area due to the extension of County Road 54 are not expected.

e. Avoidance:

As impacts due to parking for this project account for 43.34% of wetland impacts (or 23.03 acres out of a total of 53.89 acres), the type (surface versus garage) and quantity of parking were heavily scrutinized.

The Corps required the applicant to evaluate the practicability of employing additional parking garages (in lieu of surface parking) in the project design to minimize the footprint of surface parking. The project, as originally proposed, featured a 2,098-space parking structure in Phase 2 of the project. It will displace a portion of Phase I surface parking to accommodate parking demand generated by the addition of 215,000 ft<sup>2</sup> of retail in Phase 2 on the south side of State Road 56. The applicant completed a financial feasibility study to analyze the economic practicability of adding a 2,000-space parking garage to the plan, for a total of 4,098 spaces within parking garages. Although these additional spaces within a parking garage would reduce the project footprint by 16 acres, the resulting Rate of Return (7.4% in Phase 1 and 7.5% in Phase 2) deems the alternative impracticable since financing cannot be secured at this profit level. The applicant further stated that the "Power

Center" tenants, north of State Road 56, demand their customer parking at grade and will not accept a location served by structured parking.

The Corps questioned why the proposed number of parking spaces exceeded that required by Pasco County. The applicant stated that Pasco County's requirements were the minimum, but not sufficient to meet shopping center industry standards. The applicant supplied parking data verifying the requirements of stores like Kohls, Costco, and Target to have at least 1 parking space per 200 square feet (as is proposed in this project). Pasco County requires only 1 parking space per 300 square feet for retail.

The Corps also required the applicant to compare the proposed parking with that of nearby malls. The results revealed that the project proposed more parking than any existing mall in the evaluation. The applicant stated that regional malls, such as that proposed, have a much higher component of restaurant uses than older malls. Restaurant uses require 2-3 times the amount of parking than retail. Hypothetically, if one-half of the projects' restaurant use were converted to retail, the project would then have less parking than all malls in the analysis except Westshore Plaza. Westshore Plaza is deemed an exception due its location in a mature urban market where parking is restricted by economics and tenant demand is high.

The only buildings within the development that will be multi-story are the 3 proposed department stores. The Corps inquired if other uses could be converted to multi-story to reduce the project footprint. The applicant stated that the Power Center tenants north of State Road 56 require a one-story format, as sales dollars decrease on the second floor and operational costs are higher. Within the open-air mall south of State Road 56, the department stores are the only stores that have a variety of departments that allows them to merchandize the second floor.

The applicant's use of retaining walls as opposed to gradual side slopes resulted in the avoidance of 1.23 acres of wetland impacts. Retaining walls are proposed behind the power center,

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the northern boundary of Pond D, two locations along County Road 54, and behind the hotel and department store on the south side of State Road 56.

The Corps inquired as to what efforts would be taken to ensure the construction of storm water ponds does not dewater adjacent wetlands. During construction of the ponds, recharge ditches will be placed between the wetlands and excavated to maintain a base flow to the wetlands. After construction, the ponds will provide flows to the wetlands after treatment and attenuation of the runoff. A detailed geotechnical engineering study was performed by Ardaman Associates to address this potential concern. The Ardaman report concludes that construction of the stormwater ponds will not adversely dewater adjacent wetlands.

A commenter asked if efforts were taken to avoid impacts to forested wetlands in particular. The project site contains primarily forested wetlands. The only herbaceous system of good quality is adjacent to Cypress Creek and will be preserved. It would not be ecologically sound to impact this sensitive area adjacent to Cypress Creek to minimize forested wetland impacts.

f. Minimization:

To examine potential downsizing of the project to reduce wetland impacts, the Corps required the applicant to evaluate the practicability of downsizing the project uses in terms of existing technology, cost, and logistics. Since cost was the limiting factor, alternatives consisted of reducing the footprint by 5% (Alternative 2), 10% (Alternative 3), 15% (Alternative 4), and 20% (Alternative 5), as compared to that proposed (Alternative 1). For these alternatives, the reduction in project footprint and resulting Rate of Return was reported as follows:

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	Alternatives				
	1	2	3	4	5
Retail (ft <sup>2</sup> )	921,647	875,565	829,482	783,400	737,318
Restaurants (ft <sup>2</sup> )	178,800	169,765	160,830	151,895	142,960
Office (ft <sup>2</sup> )	420,000	399,000	378,000	357,000	336,000
Residential Units	630	599	567	536	504
Dept Stores	3	2	1	1	1
Hotel Rooms	700	525	350	175	175
Banks	4	3	2	1	1
Reduction in Site Area (ac)	NA	28.71	57.49	69.36	77.64
Phase 1 Rate of Return (%)	8.0	7.73	7.46	7.33	7.20
Phase 2 Rate of Return (%)	8.0	7.80	7.64	7.57	7.54

Although just a 5% downsizing in project uses would reduce the project footprint by over 28 acres, the applicant stated that a Rate of Return below 8.0% deems the alternative impracticable. The applicant states that a Rate of Return of at least 8.0% is required to secure financing for the project. In fact, the financial feasibility studies performed by the applicant show that deleting just one bank from the project would bring the Rate of Return below 8%.

One commenter suggested building the project over State Road 56 to minimize wetland impacts. The construction of retail structures over major roadways, particularly interstate highways, is rarely done outside of major metropolitan areas, such as New York or Atlanta. Aside from the obvious issue of cost, there are technical and legal issues that must be considered. The Florida Department of Transportation (FDOT) owns the air rights over the State Road 56 right-of-way. Construction of buildings over State Road 56 would reduce FDOT's future options for the interchange of State Road 56 and Interstate 75. Such structures would require a high elevation to achieve proper design clearances. Spans would have to be long and columns would obstruct views making for a dangerous approach to the Interstate 75 interchange. Ingress and egress

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would be complex, difficult to design and could potentially pose safety issues. To the best of applicant's knowledge, FDOT has never approved of such a proposal.

Minimizing impacts to the upland buffer adjacent to Cypress Creek is of paramount concern given the quality of the resource (Cypress Creek is an Outstanding Florida Water) and the proximity and scale of the proposed development. Buffers enhance or provide a number of important aquatic resource functions including: sediment removal and erosion control, excess nutrient and metal removal, moderation of storm water runoff, moderation of water temperature, maintenance of habitat diversity, wildlife species distribution and diversity, and reduction of human impact. The proposed construction of Ponds "D" and "E" will reduce the width of this natural buffer in places. However, a minimum buffer distance between Cypress Creek and any type of activity is 50 feet. Also, the minimum distance between the Creek and any paved surface is approximately 600 feet. The applicant will provide further protection to the creek by 1) planting all littoral shelves on the site with native vegetation, and 2) planting the shallow, non-littoral shelf area within 300 feet of Cypress Creek with native vegetation. The ponds, as proposed, will serve as buffers or "soft uses" between the development and Cypress Creek and provide all of the referenced functions including: sediment removal, erosion control, nutrient and metal removal, moderation of stormwater runoff, moderation of water temperature, maintenance of habitat diversity and reduction of human impact. Given that the project footprint could not be further reduced (discussed above), the Corps finds that maintenance of the 50-foot buffer, strategic location of the ponds between the development and Cypress Creek, and the plantings of native vegetation within the ponds provide the best protection possible for the Creek.

Impacts to remaining on-site wetlands will be minimized by maintaining an average 25-foot buffer and protecting them in perpetuity through a conservation easement.

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g. Compensatory Mitigation:

The applicant proposes both on-site and off-site mitigation. On site, the applicant will create mitigation areas M-1 (2.95 ac), M-2 (2.39 ac), and M-3 (8.27 ac). Both M-1 and M-2 will be forested wetlands and M-3 will be an herbaceous wetland.

The applicant also proposes off-site mitigation on the 250-acre Alston tract in southeastern Pasco County in the headwaters of the Hillsborough River. The land is owned and will continue to be owned by Mr. Brad Alston. The approved off-site mitigation plan includes:

- 62.2 acres of forested wetland preservation  
(Wetland Preservation 1/Mixed Forest Wetlands & Wetland Preservation 8/Dewatered Cypress Wetland & Wetland Preservation 9/Dewatered Cypress Wetlands within Flatwoods)
- 4.9 acres of herbaceous wetland preservation  
(Wetland Preservation 2/Marshes Within Flatwoods)
- 19.4 acres of herbaceous wetland creation  
(Wetland Creation 1/Savannah)
- 14.8 acres of herbaceous wetland restoration  
(Wetland Restoration 1/Wet Prairie)
- 8.0 acres of forested wetland enhancement  
(Wetland Enhancement 1/Historic Slough System & Wetland Enhancement 5/Cypress in Pasture)
- 9.3 acres of herbaceous wetland enhancement (Enhancement 3/Marshes in Pasture & Enhancement 4/Marshes in Pasture on boundary)

The Corps determined that lost wetland functions on the project site were 1) flood water storage, 2) water purification, and 3) wildlife habitat. Flood storage will be mitigated on-site through storm water ponds. These ponds will also provide filtration functions. The water quality monitoring plan will ensure there are no adverse effects to water quality. Wildlife habitat can be partially mitigated on-site through the construction of littoral shelves within the stormwater ponds. These shelves are frequently used by wading birds. However, the vast majority of the lost wildlife habitat function cannot be



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mitigated effectively on-site. The Corps determined that it was appropriate in this case to mitigate the lost wildlife habitat off-site. The only value that could potentially be affected is use of Cypress Creek for recreational enjoyment. This use will be unaffected by the project, as large buffers will visually and spatially separate the development from the mall. Construction of the mall will not directly impact the creek nor affect any public access.

A quantitative functional assessment was completed by the Corps using the Unified Mitigation Assessment Methodology as follows:

IMPACTS	Wetland Type	Wetland ID	Acres	UMAM delta	Functional Loss
	Forested	A / A1*	25.43	0.0667	-1.70
	Forested	A	23.20	0.5667	-13.15
	Forested	A-2	0.84	0.4000	-0.34
	Forested	H	3.73	0.5667	-2.11
	Forested	J	9.33	0.6667	-6.22
	Forested	L	2.51	0.6333	-1.60
	<i>Subtotal</i>		65.04		-25.12
	Herbaceous	K	3.83	0.4667	-1.79
	Herbaceous	N	4.43	0.5667	-2.51
	Herbaceous	T	0.18	0.4333	-0.08
	Herbaceous	U	1.09	0.6000	-0.65
	Herbaceous	F	0.30	0.2000	-0.06
	Herbaceous	L	11.45	0.6333	-7.25
	Herbaceous	L1	1.46	0.4333	-0.63
	Herbaceous	O	0.82	0.6333	-0.52
	Herbaceous	A1	0.18	0.3667	-0.07
	Herbaceous	A3	0.07	0.3667	-0.03
	<i>Subtotal</i>		23.81		-13.59
	<b>TOTAL</b>		<b>88.85</b>		<b>-38.71</b>

\*Secondary impact due to use of the wetland for stormwater treatment.

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Note: Jurisdictional ditch D1 (0.12 ac) was determined to have negligible aquatic function and impacts did not require mitigation.

Note: The following temporary impacts for outfall construction were considered minimal and did not require mitigation:

K (0.005 ac) and L (0.007 ac).

Note: The following wetlands were determined to be non-jurisdictional and impacts did not require mitigation:

G (2.54 ac), I (0.59 ac), and S (0.44 ac).

MITIGATION (ON-SITE CREATION)	Wetland Type	Wetland ID	Acres	UMAM delta	Relative Functional Gain	Functional Gain
	Forested	M1	2.95	0.80	0.4233	1.25
	Forested	M2	2.39	0.80	0.4233	1.01
	<i>Subtotal</i>		5.34			2.26
	Herbaceous	M-3	8.27	0.67	0.4298	3.55
	TOTAL		13.61			5.81

MITIGATION (OFF-SITE CREATION)	Wetland Type	Wetland ID	Acres	UMAM delta	Relative Functional Gain	Functional Gain
	Herbaceous	1	19.40	0.80	0.2992	5.80

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MITIGATION (OFF-SITE ENHANCEMENT)	Wetland Type	Wetland ID	Acres	UMAM delta	Relative Functional Gain	Functional Gain
	Forested	1	4.20	0.53	0.1411	0.59
	Forested	5	3.80	0.23	0.1504	0.57
	<i>Subtotal</i>		8			1.16
	Herbaceous	3	7.90	0.43	0.2794	2.21
	Herbaceous	4	1.40	0.40	0.2493	0.35
	<i>Subtotal</i>		9.3			2.56
	<b>TOTAL</b>		<b>17.3</b>			<b>3.72</b>

MITIGATION (OFF-SITE RESTORATION)	Wetland Type	Wetland ID	Acres	UMAM delta	Relative Functional Gain	Functional Gain
	Herbaceous	1	14.80	0.83	0.5194	7.69

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MITIGATION (OFF-SITE PRESERVATION)	Wetland Type	Wetland ID	Acres	Preservation Adjustment Factor	Adjusted UMAM Delta	Functional Gain
	Forested	1	33.8	0.90	0.27	9.13
	Forested	8	2.9	0.90	0.27	0.78
	Forested	9	25.5	0.90	0.27	6.89
	Subtotal		62.2			16.8
	Herbaceous	2	4.9	0.90	0.27	1.02
	<b>TOTAL</b>		<b>67.1</b>			<b>17.82</b>

SUMMARY		Forested FG/FL (ac)	Herbaceous FG/FL (ac)
	Impacts	-25.12 (65.04)	-13.59 (23.81)
	Creation	+2.26 (5.34)	+9.35 (27.67)
	Enhancement	+1.16 (8.0)	+2.56 (9.3)
	Restoration	0	+7.69 (14.8)
	Preservation	+16.8 (62.2)	+1.02 (4.9)
	<b>Total</b>	<b>+20.22 (47.14)</b>	<b>+20.62 (56.67)</b>

Total Functional Loss = -38.71

Total Functional Gain = +40.84

The applicant requested enhancement credit for Wetland Areas 8 and 9. However, with the lack of baseline data, it is the determination of the Corps that measurable success criteria to demonstrate hydrologic enhancement cannot be created. Therefore, preservation credit was given to these areas.

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To ensure compliance with the proposed mitigation plan, it will be attached to the federal permit (Attachment 3) and the following special conditions will be included:

On-site wetland mitigation: Within 12 months from the date of this permit, the Permittee must complete final grading and initial planting of on-site wetland creation areas and record conservation easements for all mitigation areas to accomplish the following objectives in accordance with the approved compensatory wetland mitigation plan (Attachment 3):

- (1) 5.34 acres forested wetland creation
- (2) 8.27 acres herbaceous wetland creation
- (3) 13.2 acres of littoral shelf vegetation within surface water management ponds
- (4) 2.81 acres of shallow water (non-littoral shelf) vegetation within surface water quality ponds to include all such areas within 300 feet of the top of bank of Cypress Creek.

Off-site wetland mitigation: Within 12 months from the date of this permit, the Permittee must complete final grading (including sod removal) and initial mulching and seeding of wetland mitigation areas, erect all required fencing, construct all berms, and record conservation easements for all mitigation areas. Initial planting of shrubs and trees within wetland mitigation areas shall be completed within 24 months. These measures will serve to accomplish the following objectives in accordance with the approved compensatory wetland mitigation plan (Attachment 3):

- (1) 33.8 acres forested wetland preservation
- (2) 4.9 acres herbaceous wetland preservation
- (3) 19.4 acres herbaceous wetland creation
- (4) 14.8 acres herbaceous wetland restoration
- (5) 8.0 acres forested wetland enhancement
- (6) 9.3 acres herbaceous wetland enhancement

In addition to the specific performance standards of the approved compensatory mitigation plan (Attachment 3), the Permittee must meet the following performance standards:

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a. At least 80 percent cover by appropriate wetland species (i.e., FAC or wetter).

b. Less than 5 percent cover of Category I and II invasive exotic plant species, pursuant to the most current list established by the Florida Exotic Pest Plant Council at <http://www.fleppc.org>, and shall include the nuisance species primrose willow (Ludwigia peruviana), dogfennel (Eupatorium capillifolium), Bermudagrass (Cynodon spp.), Bahiagrass (Paspalum notatum), and cattail (Typha spp.).

c. Less than 20 percent mortality of planted wetland species.

For herbaceous mitigation areas, the Permittee must achieve the above performance standards by the end of the 5-year monitoring period, with no maintenance during the 5th year of monitoring. For forested mitigation areas, the Permittee must achieve the above performance standards by the end of the 10-year monitoring period, with no maintenance during the 10th year of monitoring. In the event that the above performance standards have not been achieved the Permittee must undertake a remediation program approved by the Corps in accordance with Special Condition 6 of this permit.

To show compliance with the performance standards the Permittee must complete the following:

a. Perform a time-zero monitoring event of the wetland mitigation area(s) within 60 days of completion of mitigation objectives.

b. Submit the time-zero report to the Corps within 60 days of completion of the monitoring event. The report will include a paragraph depicting baseline conditions of the mitigation site(s) prior to initiation of the mitigation objectives and a detailed plan view drawing of all created, enhanced and/or restored mitigation areas.

c. Perform semi-annual monitoring of the wetland mitigation areas for a period of no less than 3 years subsequent to completion of the mitigation objectives and annually thereafter.

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d. Submit annual monitoring reports to the Corps within 60 days of completion of the monitoring event.

e. Monitor the mitigation area(s) and submit annual monitoring reports to the Corps until released in accordance with Special Condition 7 of this permit.

Annual monitoring reports must follow a 10-page maximum report format for assessing mitigation sites. The Permittee must submit all documentation to the Corps on 8½-inch by 11-inch paper, and include the following:

a. Project Overview (1 Page):

(1) Corps Permit Number.

(2) Name and contact information of Permittee and consultant.

(3) Name of party responsible for conducting the monitoring and the date(s) the inspection was conducted.

(4) A summary paragraph defining the purpose for the approved project, acreage and type of aquatic resources impacted, and mitigation acreage and type of aquatic resources authorized to compensate for the aquatic impacts.

(5) Written description on the location and any identifiable information to locate the site perimeter(s).

(6) Directions to the mitigation site (from a major highway).

(7) Dates compensatory mitigation commenced and/or was completed.

(8) Short statement on whether the performance standards are being met.

(9) Dates of any recent corrective or maintenance activities conducted since the previous report submission.

(10) Specific recommendations for any additional corrective or remedial actions.

b. Requirements (1 page): List the monitoring requirements and performance standards, as specified in the approved mitigation plan and special conditions of this permit, and evaluate whether the compensatory mitigation project site is successfully achieving the approved performance standards or trending towards success.

c. Summary Data (maximum of 4 pages): Data must be provided to substantiate the success and/or potential challenges associated with the compensatory mitigation project. Any photo documentation must be dated and clearly labeled with the direction from which the photo was taken, and be identified on the appropriate maps.

d. Maps (maximum of 3 pages): Maps must be provided to show the location of the compensatory mitigation site relative to other landscape features, habitat types, locations of photographic reference points, transects, sampling data points, and/or other features pertinent to the mitigation plan.

e. Conclusions (1 page): A general statement must be included describing the conditions of the compensatory mitigation project. If performance standards are not being met, a brief explanation of the difficulties and potential remedial actions proposed by the Permittee, including a timetable, must be provided.

If the compensatory mitigation fails to meet the performance standards at the end of 5 years after the initiation of herbaceous mitigation activities has occurred, the compensatory mitigation will be deemed unsuccessful. If the compensatory mitigation fails to meet the performance standards at the end of 10 years after the initiation of forested mitigation activities has occurred, the compensatory mitigation will be deemed unsuccessful. Within 60 days of notification by the Corps that the mitigation is unsuccessful, the Permittee must submit to the Corps an alternate compensatory mitigation proposal to fully offset the functional loss that occurred as a result of the project. The alternate mitigation proposal may be required to



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include additional mitigation to compensate for the temporal loss of wetland function associated with the unsuccessful compensatory mitigation activities. The Corps reserves the right to fully evaluate, amend, and approve or reject the alternate compensatory mitigation proposal. Within 120 days of Corps approval, the Permittee will complete the alternate compensatory mitigation proposal.

Your responsibility to complete the required compensatory mitigation, as set forth in Special Condition 1 of this permit will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the Corps. A mitigation area which has been released will require no further monitoring or reporting by the Permittee; however the Permittee, Successors and subsequent Transferees remain perpetually responsible to ensure that the mitigation area(s) remain in a condition appropriate to offset the authorized impacts in accordance with General Condition 2 of this permit.

The Permittee must provide to the Corps as-built drawings of the authorized work and an As-Built Certification Form (Attachment 6). The drawings and Certification Form must be submitted to the Corps within 60 days of completion of the authorized work, or at the expiration of the construction window of this permit, whichever occurs first. The drawings must be signed and sealed by a registered professional engineer and include the following:

a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, the Permittee shall describe, on the As-Built Certification Form, the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on

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the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

- c. The Department of the Army Permit number.
- d. Include pre- and post-construction aerial photographs of the project site, if available.

The Permittee must have a legally sufficient conservation easement prepared to ensure that the areas referenced in Special Condition 1 will remain in their natural state in perpetuity. The on-site conservation easement will encompass approximately 99.070 acre(s) of wetlands and 17.607 acre(s) of uplands. The off-site conservation easement will encompass approximately 130.5 acre(s) of wetlands and 118.6 acre(s) of uplands. These natural preserve areas will not be disturbed by any dredging, filling, land clearing, agricultural activities, planting, or other construction work whatsoever. The Permittee agrees that the only future utilization of the preserved areas in question will be as a purely natural area. To show compliance with this condition the Permittee must complete the following:

- a. Within 12 months from the date of this permit, submit to the Corps the draft conservation easement document with a legal description, survey, and scale drawings, of the area in question.

- b. Within 30 days of Corps' approval of the draft conservation easement, record the easement in the public records of Pasco County, Florida. A certified copy of the recorded document, plat, and verification of acceptance from the grantee must be forwarded to the Corps within 60 days of Corps' approval of the draft conservation easement.

- c. Within 12 months from the date of this permit submit to the Corps a title insurance commitment with the draft conservation easement document, **IN FAVOR OF THE GRANTEE**, for the property which is being offered for preservation to show that the Permittee has clear title to the real property and can